

Introduced by Senator Sher

February 21, 2003

An act to amend Sections 21108 and 21152 of the Public Resources Code, relating to environmental quality.

LEGISLATIVE COUNSEL'S DIGEST

SB 647, as introduced, Sher. Environmental quality: notice of determination.

(1) Existing law, the California Environmental Quality Act, requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of, an environmental impact report on a project that it proposes to carry out or approve that may have a significant effect on the environment, as defined, or to adopt a negative declaration if it finds that the project will not have that effect, unless the project is exempt from the act. The act authorizes state and local lead agencies or project proponents to file a notice of determination with the Office of Planning and Research or the county clerk, as prescribed, whenever the lead agency determines that a project is not subject to the act and the lead agency approves or determines to carry out the project. With regard to local lead agencies, the county clerk is required to post the notice and return it to the agency, which is required to retain the notice for not less than 9 months.

This bill would instead require the local lead agency to retain the filed notice of determination for not less than 12 months, thereby imposing a state-mandated local program by imposing new duties on the local agency. The bill would also, with regard to state lead agencies, require the Office of Planning and Research to retain a filed notice of determination for not less than 12 months.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 21108 of the Public Resources Code is
2 amended to read:

3 21108. (a) Whenever a state agency, ~~board, or commission~~
4 approves or determines to carry out a project ~~which~~ *that* is subject
5 to this division, ~~it~~ *the state agency* shall file notice of that approval
6 or that determination with the Office of Planning and Research.
7 The notice shall indicate the determination of the *state* agency;
8 ~~board, or commission~~ whether the project will, or will not, have
9 a significant effect on the environment and shall indicate whether
10 an environmental impact report has been prepared pursuant to this
11 division.

12 (b) Whenever a state agency, ~~board, or commission~~ determines
13 that a project is not subject to this division pursuant to subdivision
14 (b) of Section 21080 or ~~pursuant to Section 21085 or 21172~~, and
15 ~~it~~ *the state agency* approves or determines to carry out ~~that~~ *the*
16 project, ~~it~~ *the state agency* or the person specified in subdivision
17 (b) or (c) of Section 21065, may file notice of the determination
18 with the Office of Planning and Research. Any notice filed
19 pursuant to this subdivision by a person specified in subdivision
20 (b) or (c) of Section 21065 shall have a certificate of determination
21 attached to it issued by the state agency, ~~board, or commission~~
22 responsible for making the determination that ~~a~~ *the* project is not
23 subject to ~~the provisions of~~ this division pursuant to subdivision
24 (b) of Section 21080 or pursuant to ~~Section 21085 or 21172~~. The
25 certificate of determination may be in the form of a certified copy
26 of an existing document or record of the state agency, ~~board, or~~
27 ~~commission~~.

28 (c) All notices filed pursuant to this section shall be available
29 for public inspection, and a list of these notices shall be posted on

a weekly basis in the Office of Planning and Research. Each list shall remain posted for a period of 30 days. *The Office of Planning and Research shall retain each notice for not less than 12 months.*

SEC. 2. Section 21152 of the Public Resources Code is amended to read:

21152. (a) Whenever a local agency approves or determines to carry out a project ~~which~~ *that* is subject to this division, ~~it the~~ *the local agency* shall file notice of the approval or the determination within five working days after the approval or determination becomes final, with the county clerk of each county in which the project will be located. The notice shall indicate the determination of the local agency whether the project will, or will not, have a significant effect on the environment and shall indicate whether an environmental impact report has been prepared pursuant to this division. The notice shall also include certification that the final environmental impact report, if one was prepared, together with comments and responses, is available to the general public.

(b) Whenever a local agency determines that a project is not subject to this division pursuant to subdivision (b) of Section 21080 or pursuant to Section ~~21085 or~~ 21172, and ~~it the local~~ *the local* agency approves or determines to carry out the project, ~~it, the local~~ *the local* agency or the person specified in subdivision (b) or (c) of Section 21065, may file a notice of the determination with the county clerk of each county in which the project will be located. ~~Any~~ A notice filed pursuant to this subdivision by a person specified in subdivision (b) or (c) of Section 21065 shall have a certificate of determination attached to it issued by the local agency responsible for making the determination that the project is not subject to this division pursuant to subdivision (b) of Section 21080 or ~~pursuant to~~ *pursuant to* Section ~~21085 or~~ 21172. The certificate of determination may be in the form of a certified copy of an existing document or record of the local agency.

(c) All notices filed pursuant to this section shall be available for public inspection, and shall be posted within 24 hours of receipt in the office of the county clerk. ~~Each~~ A notice shall remain posted for a period of 30 days. Thereafter, the clerk shall return the notice to the local agency with a notation of the period it was posted. The local agency shall retain the notice for not less than ~~nine~~ *12* months.

1 SEC. 3. No reimbursement is required by this act pursuant to
2 Section 6 of Article XIII B of the California Constitution because
3 a local agency or school district has the authority to levy service
4 charges, fees, or assessments sufficient to pay for the program or
5 level of service mandated by this act, within the meaning of
6 Section 17556 of the Government Code.

